

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **VICE CHAIRMAN MIKE SPRAGUE**, on January 17,
2003 at 9:06 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddy McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 109, 12/20/2002
Executive Action: SB 101

{Tape: 1; Side: A}

HEARING ON SB 109

Sponsor: SENATOR WALTER MCNUTT, SD 50, SIDNEY

Proponents: Kevin Braun, Department of Labor & Industry; Jim Brown, Business Standards Division of the Department of Labor & Industry; Dr. Arthur Fink, Board of Medical Examiners; Jim Smith, Montana Pharmacy Association; Lee Wiser, Denturists.

Opponents: None

Informational Witnesses: Rebecca Deschamps, Executive Director of the Board of Pharmacy; Lisa Addington, Health Care Licensing Chief.

Opening Statement by Sponsor:

SEN. WALTER MCNUTT said this bill is a combined professional and occupational health licensing board housekeeping bill as requested by the Department of Labor & Industry, Business Standards Division, Healthcare Licensing Bureau. The bill addresses statutes governing the Boards of Pharmacy, Medical Examiner, Dentistry, Chiropractic, Funeral Services and Alternative Health Care. The bill eliminates the need for each board to submit a separate bill.

Proponents' Testimony:

Kevin Braun, Department of Labor & Industry, distributed proposed amendments and addressed each of them, **EXHIBIT**(bus10a01).

Jim Brown, Business Standards Division of the Department of Labor & Industry, offered written testimony, **EXHIBIT**(bus10a02).

Arthur Fink, D.O., practicing internist from Glendive and a member of the Board of Medical Examiners, had been asked to discuss the proposal for SB 109 updating the language to get the medical statutes in concert with modern practice. He said osteopathic physicians have been comparable to M.D.'s since 1977 in all states of the union. Prior to that, there were some osteopaths who did not have a full internship nor residency programs. The reality is osteopaths throughout Montana have full prescriptive powers equal to and coexistent with M.D.'s. He advised the committee that wherever it said "physician" in their statutes, it should not only say M.D., but also D.O. Dr. Fink also shared that the accrediting agency is different for osteopathic residency programs, and it should be so listed.

Jim Smith, Montana Pharmacy Association, offered their support of SB 109, in particular the provisions in Section 1 that would add a registered pharmacy technician to the Board of Pharmacy. This profession in healthcare has changed and it seems appropriate to add a registered pharmacy technician to this board. They are interested in three of the amendments that change "licensed" to "registered."

Lee Wiser, denturist from Bozeman, gave his support to SB 109.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. DON RYAN asked **Mr. Braun** about striking "Board of Nursing" from Section 2 on No. 9 of the amendments. **Ms. McClure** clarified this by saying the amendment would strike Section 2 in its entirety and does not delete the Board of Nursing.

SEN. CAROLYN SQUIRES wanted clarification on the makeup of the Board of Nursing and **Mr. Braun** stated it is made up of four RN's, three LPN's, and two consumers. She also asked **Mr. Smith** about the makeup of the Pharmacy Board and the fact that it is an even number.

{Tape: 1; Side: B}

Ms. Rebecca Deschamps stated her appreciation for **SEN. SQUIRES'** concern about the even number of members on the Pharmacy Board. The duties of pharmacists have been greatly expanded. They are no longer dispensers of medication; they have gone on to a more clinical role. They are dependent on technicians to do that. She didn't believe the pharmacists, who requested the voice of technicians, would have a problem with it. From the financial end of it, she did not know if they could sustain two more members.

SEN. SQUIRES asked **SEN. MCNUTT** if there were funds available through the Board of Pharmacy, would he consider putting another person on the board. He said he wanted to get the opinion of the pharmacists before that time.

SEN. VICKI COCCHIARELLA addressed **Ms. Deschamps**. She asked if there are enough registered pharmacy technicians out there to meet the five-year requirement. **Ms. Deschamps** answered in the affirmative. **SEN. COCCHIARELLA** asked **Ms. Deschamps** to speak with the members of the Board of Pharmacy about the option of putting another Pharmacy Technician on the board.

SEN. RYAN had a question on Section 13 for **Ms. Lisa Addington** about taking the exam. He said dentists in his area who are ready to retire are having a hard time selling their practice. She replied that the Board of Dentistry utilizes the Western Regional Examination and it is offered 16 times per year. There is also reciprocity if an individual is licensed in another state. **SEN. RYAN** asked **Ms. Addington** where the regional exam is given. She answered that it includes Arizona, Idaho and Montana, but didn't recall all of the states.

Closing by Sponsor:

SEN. MCNUTT thanked the committee for a good hearing and asked for a do pass of SB 109.

EXECUTIVE ACTION ON SB 101

Discussion:

CHAIRMAN DALE MAHLUM asked **SEN. MIKE SPRAGUE** to continue on with executive action, because **SEN. MAHLUM** was the sponsor of SB 101.

Ms. Eddy McClure explained the amendments handed out at the hearing for SB 101.

SEN. GEBHARDT raised the issue of lines 6 and 7 on page 5 being stricken and general fund issues. **Jeff Tiberi, Executive Director of the Montana Heritage Protection Commission**, quoted that parliament cannot bind the hands of future parliaments. He said that because it was a past session of legislature, they can't tie the hands of present legislators. Their intent is not to tap into the General Fund.

SEN. SPRAGUE asked **Ms. McClure** if that means they have to come back every legislative session. **Ms. McClure** stated it means that you can't give carte blanche for the next legislature. It is the intent of the 58th Legislature.

SEN. MAHLUM said he would like to see the amendment put in the 58th Legislature again, because, by taking it out, it creates skepticism amongst fellow legislatures on the Senate Floor, which is not the intent.

SEN. COCCHIARELLA asked **Ms. McClure** why does the language have to be that specific? **Ms. McClure** replied it is because we can't appropriate money beyond the legislative two years that you're in office. You can't bind the next legislature as to what they will or will not be able to appropriate.

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SEN. RYAN stated this provision, as it reads now, needs to be stricken. **SEN. MAHLUM** wants it to read "58th."

SEN. MAHLUM moved that Lines 6 and 7 show "58th." The vote was unanimous.

SEN. NORM GEBHARDT said he understands the need to sell real property; however, should some of the properties be sold? **SEN. MAHLUM** explained that the properties are scattered around. Anyone who comes in and buys the properties has to comply with the codes of Virginia City and Nevada City. **SEN. COCCHIARELLA** also shared her concerns about people moving into these towns in later years and changing the whole perspective of this project.

SEN. SAM KITZENBERG distributed his written concerns about SB 101, **EXHIBIT (bus10a03)**.

SEN. SHERM ANDERSON asked **SEN. MAHLUM** for the composition of the commission. **SEN. MAHLUM** said the commission is made up of people appointed by the Governor, one each appointed by the House and Senate, a representative of the Tourism Advisory Council, as well as others across the state.

{Tape: 2; Side: B}

SEN. MAHLUM discussed at great length the commission's charge to take care of these assets that belong to Montana.

SEN. RYAN expressed his feelings that SB 101 could not be brought to a conclusion today and offered a suggestion. He had talked to **Mr. Tiberi** about it and stated his ideas about the process of selling any items. He also shared his views after his tour of the towns and how some of the things down at Virginia City need to be sold in order to allow the project to go forward. He used the analogy of the commission carrying a great big bag around behind them if they're not allowed to sell some of the unnecessary items and move forward. **SEN. RYAN** did not feel this was a "fire sale" and shouldn't be viewed as such. He hoped for one more step to the process so they can get the Historical Society and the Heritage Preservation Commission on the same path.

SEN. COCCHIARELLA shared the value she found in some of the amendments offered by the Historical Society. Their first amendment says the commission may not sell real property that contributes to the National Historical Landmark or National

Registry of Historical places status of a site without attaching preservation covenants to the deed.

SEN. MAHLUM suggested recessing this hearing and withdrew his motion to pass SB 101.

ADJOURNMENT

Adjournment: 10:20 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus10aad)